IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3844 of 1991

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BECKAWAT OF INDIA LTD - Petitioner(s)

Versus

R.Y. MAKWAN & 33 - Respondent(s)

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Appearance :

MR GANDHI for NANAVATI ASSOCIATES for Petitioner No(s).: 1.

MR K L PANDYA AGP for Respondent No(s).: 1.
MR HU RAVANI for Respondent No(s).: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33,34.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 20/07/2005

ORAL JUDGMENT

1.0 The petitioner has challenged the order dated 30.03.1991 passed by the Labor Court, Naiad, in Reference

(LCN) No.29 of 1985, whereby the said reference was partly allowed.

2.0 The petitioner is a private limited Company registered under the provisions of the Companies Act, 1956 and is engaged in the business of manufacturing alluminium doors, windows, etc. and the respondents are the workers of the petitioner Company. It is the case of the petitioner that as a result of continuous loss and with a view to streamline the manufacturing activities, the respondents were retrenched on 07.04.1984.

2.1 Being aggrieved by the said order, the respondents raised a dispute, which ultimately, came to be referred to the Labour Court, Nadiad, by way of a reference. It is the case of the petitioner that in the meanwhile, the respondent Union filed application exh.41 in the said reference demanding the production of various documents from the petitioner. The Labour Court, Nadiad, vide order dated 11.07.1989 directed the petitioner Company to produce the said documents.

2.2 It is the case of the petitioner that during the pendency of the said reference, the petitioner preferred

a petition being Special Civil Application No.5164 of 1989 before this Court challenging the order passed below exh.41. This Court, by way of ad-interim relief, stayed the operation of the order dated 11.07.1989. It is the further case of the petitioner that in spite of the order of this Court staying the operation of the order passed below exh.41, the Labour Court passed the impugned award dated 30.03.1991. Being aggrieved by the said award, the petitioner has preferred this petition before this Court.

3.0 While admitting the matter on 12.06.1991, this Court had stayed the operation of the award of the Labour Court in so far as the payment of back wages was concerned, on condition that the petitioner makes payment of half of the amount to the respondents workmen within a period of three months from that date.

3.1 Against the said order, Special Leave Petition No.13564 of 1991 was preferred before the Hon'ble Supreme Court. On 03.09.1991, the Hon'ble Supreme Court dismissed the said petition with a direction to this Court to expedite the disposal of the petition pending before it.

4.0 I have heard learned counsel for the parties and

perused the documents placed on record. Since the respondents workmen are already reinstated in service, I am of the opinion that no fruitful purpose will be served by disturbing the said position after almost fourteen years. The question which is now required to be considered by this Court is with regard to the payment of the balance 25 per cent back wages. Since the respondents workmen have already received 25 per cent of the back wages awarded by the Labour Court and they have been reinstated in service, in my opinion, the same would suffice. Moreover, considering the fact that the respondents had not worked for the interim period, they cannot be said to be entitled for the balance 25 per cent of back wages.

5.0 In the result, the petition is partly allowed. The impugned award of the Labour Court qua granting reinstatement with continuity of service is confirmed. So far as the payment of the balance 25 per cent back wages is concerned, the same is quashed and set aside. Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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